



Office of Utility Regulation

# **Competition for 3G Mobile Telecommunications Licence**

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## Information Memorandum

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**Office of Utility Regulation**

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# **1. Introduction**

## **1.1. Purpose of the Information Memorandum**

This Memorandum provides information to all interested parties about the licensing process in the Bailiwick of Guernsey for the award of a third generation mobile telecommunications licences (“3G Licence”) and potentially one second generation mobile telecommunications licence (“2G Licence”), together known as the Mobile Telecommunications Licences.

## **1.2. Consultation with Interested Parties**

In preparation for running this competition the Director General of Utility Regulation for the States of Guernsey (“the DG”) undertook a consultation (Document OUR 05/27) to which interested parties were invited to respond. The report on the consultation has been published as Document 06/03 and is available from the Office of Utility Regulation’s (“OUR”) website (www.regutil.gg). The DG would like to thank parties who responded to that consultation and informed his consideration of the competition. He has considered all relevant views as well as such other issues as he considers appropriate in finalising this competitive process.

## **1.3. Details of the Competition**

Selection of the Successful Applicant for the available 3G licence will be carried out by means of an open competition and a comparative selection process also known and referred to as a beauty contest. The DG has appointed GOS Consulting (“GOS”) to act as advisers to the OUR in the preparation and running of the competition.

The Successful Applicant will be offered a licence to establish, operate and maintain a 3G mobile telecommunications network and to provide 3G mobile telecommunications services in the Bailiwick of Guernsey<sup>1</sup>. A 2G mobile telecommunications licence may also be made available should the Successful Applicant demonstrate a justifiable need for that licence. The Successful Applicant will also require a Wireless Telegraphy (“WT”) licence which they must obtain from Ofcom in the UK in order to use frequency spectrum.

*This document summarises some of the more important aspects of the competition only. In case of inconsistencies, the Tender Document takes precedence over this Information Memorandum. Full details of the process are contained in the Tender Document. This Information Memorandum does not constitute legal, technical or commercial advice; the Director General is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the Director General to regulate the market generally.*

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<sup>1</sup> Pursuant to Section 2(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

#### **1.4. Competition Drivers and Objectives**

Having regard to the general duties of the DG as set out in section 2 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (“the Regulation Law”), the overall objectives of the DG in running this competition is to ensure the best in price, choice and quality services for Guernsey consumers consistent with a vibrant, sustainable telecommunications sector. In order to achieve this, the competition is designed to meet the following principal objectives:

- to promote dynamic and sustainable competition within Guernsey’s mobile telephony market by licensing a second operator to operate a 3G mobile telecommunications network and provide 3G mobile telecommunications services within the Bailiwick;
- to promote an environment which fosters innovation, value, quality and choice for customers in the mobile telephony market within the Bailiwick; and
- to lessen, where practicable any adverse impact on the environment from the establishment, operation and maintenance of a telecoms network or the provision of telecom services in the Bailiwick.

#### **1.5. Request for Tender Documents**

Requests for the Tender Document must be accompanied by a non-refundable, crossed bank cheque of £5,000 made payable to the Director General of Utility Regulation.

All requests for the final tender documentation should be submitted to:

Director General of Utility Regulation Office of Utility Regulation Suites B1 & B2 Hirzel Court St Peter Port Guernsey GY1 2NH Channel Islands	
Phone:	44 1481 711120;
Fax:	44 1481 711140.
E-mail:	3Gcompetition@regutil.gg

Upon purchase of the Tender Document, potential applicants must register and submit details of a contact person. All correspondence between the OUR and the potential applicant will be through the designated contact person (or his/her substitute). There will also be the opportunity, following the purchase of the Tender Documents, for Applicants to put questions to the OUR concerning the documents, process and issues involved in the licence award.

*For the avoidance of doubt, whilst the registration and purchase of the Tender Document are prerequisites for participation in the competition, there are no further obligations associated with the purchase of the document.*

### **1.6. Timetable**

An overview of key milestones in the course of the competition process is provided below:

<b>Date</b>	<b>Event</b>
1 <sup>st</sup> February 2006	Launch competition
3 <sup>rd</sup> March 2006	Deadline for submission of questions relating to the Tender Document
13 <sup>th</sup> April 2006	Deadline for Applications
30 <sup>th</sup> June 2006	Announcement of Successful Applicant
1 <sup>st</sup> August 2006	Planned licence commencement date

The DG reserves the right to alter the above timetable.

### **1.7. Structure of the Information Memorandum**

The rest of this paper is structured as follows:

- Section 2:** describes the main characteristics of the Bailiwick of Guernsey and the market for mobile services;
- Section 3:** provides an overview of the applicable regulatory and legal framework for the competition; and
- Section 4:** describes the design of the competition.

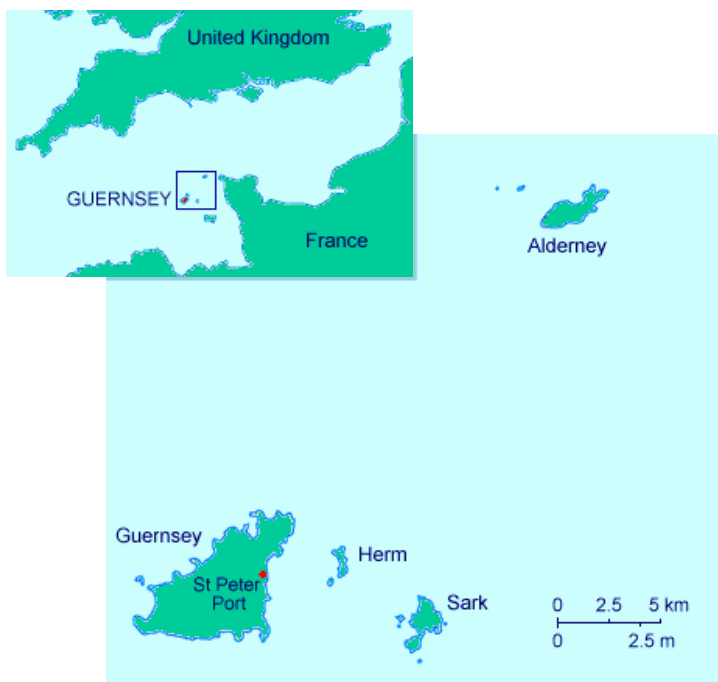
### **1.8. Summary**

The DG invites interested parties to purchase the detailed Tender Document in accordance with section 1.5 and looks forward to the receipt of Applications for the available 3G Mobile Telecommunications Licence in Guernsey.

## 2. Market for Mobile Services in the Bailiwick of Guernsey

This section provides a brief introduction to the Bailiwick of Guernsey, a small, yet sophisticated high growth economy in Western Europe<sup>2</sup>.

### 2.1. Geography



Although together with the Bailiwick of Jersey, the two Bailiwicks are referred to as the Channel Islands, they are actually located in the Gulf of St Malo. The Bailiwick of Guernsey covers an area of 127 km<sup>2</sup> comprising the main islands of Guernsey, Alderney, Herm, Sark, and a number of other smaller islands.

The island of Guernsey itself is 96 km south west of England and about 48 km west of Northern France. It is about 19 km long, 14 km wide and is divided into 10 parishes. The climate is temperate and level terrain is predominant with low

hills in the southwest of the island.

Alderney is the most northern of the Channel Islands, 14 km from France and the closest of the islands to England and access is primarily by air.

Herm is an island just off St Peter Port in Guernsey, about 20 minutes by the regular ferry service. It is 2 km long by 1 km wide. Sark lies nearly 13 km east of Guernsey. Access is by sea as there is no airport on the island.

### 2.2. Population

A Census of population and households is carried out in the Islands, the last Census being held on 29th April 2001. The Census was organised by the former Economics and Statistics Unit of the Advisory and Finance Committee. The census was carried out in the Islands of Guernsey, Herm, Jethou and Alderney. The Census revealed that the

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<sup>2</sup> For further general information about the Bailiwick of Guernsey, please visit <http://www.gov.gg/>

population of Guernsey, Herm and Jethou was 59,807, and that of Alderney was 2,294<sup>3</sup>. Over two thirds of the population are in the 19-59 year-old age group. The 2001 Census figure was the highest population ever recorded in the island and was 1,126 more than in the previous Census held in 1996. With around a further 600 people on Sark more than 95% of the population live on the island of Guernsey where the population density approaches 1,000 people per km<sup>2</sup> (2,500 people per square mile).

In 2004, a total of 355,000 people visited Guernsey. Of these, 318,000 stayed for at least one night and consisted of leisure visitors, business travellers and those visiting friends and relatives. 46,000 business visitors stayed for at least one night<sup>4</sup>. The average length of stay for leisure visitors in 2004 was 5.5 nights. Those visiting friends and relatives tend to stay the longest (5.9 nights) with business visitors staying on average 2.1 nights.

The majority of visitors (84%) originate from the UK. Of the overseas market, Europe is the primary source of visitors with 7% of all visitors coming from France.

### **2.3. Government**

The Bailiwick of Guernsey, comprising the islands of Guernsey, Alderney, Sark, Herm, Jethou, Brecqhou and Lihou, is part of the British Isles but independent of the United Kingdom. As a crown dependency, the Bailiwick has its own government body known as the States of Deliberation which legislates at insular and local level on all matters, including the raising and expenditure of taxes. Alderney and Sark each have their own insular legislature, judicial system and administrative systems. The Bailiwick of Guernsey is not a member of the EU, but benefits from an attractive trading relationship. Hence, the States of Guernsey has full powers to develop its individual legislation and policies.

The official language is English and the Pound Sterling is used in parallel to the locally circulated Guernsey Pound (which is tied directly to the Pound Sterling) issued by the Guernsey Treasury.

### **2.4. Economy**

In 2004, the Bailiwick's GDP amounted to an estimated £1,419 million (£23,726 per capita). The GDP real growth rate has traditionally been strong within the Bailiwick of Guernsey, averaging 3% between 1995 and 2004.<sup>5</sup>

While in the mid 20<sup>th</sup> century the main growth drivers were tourism and horticulture, over the past 20 years the rapid development and growth in the financial sector has generated an average annual real GDP growth rate in excess of 3.6%. In recent years, the sector has contributed to over 30% of total remuneration and 40% of total profits within the

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<sup>3</sup> Further details on the Census maybe obtained by downloading the full 2001 Census Report. Alternatively a summary of important facts and figures on population may be gained from the 2004 Facts and Figures Guide available from <http://www.gov.gg/ccm/navigation/government/facts---figures/census/>

<sup>4</sup> 2005 Guernsey Facts and Figures, States of Guernsey

<sup>5</sup> 2005 Guernsey Facts and Figures, States of Guernsey Policy Council.

Bailiwick<sup>6</sup>. As a result of past investment, the Bailiwick of Guernsey is today a leading offshore finance centre providing a variety of finance sector services such as banking, insurance, asset management etc. with more than twenty international banks having a presence on the island.

This vibrant banking business sector together with an active tourist industry on the island, attracted over 355,000 visitors in 2004. Visitors to the Bailiwick of Guernsey rely on mobile communications to stay in touch for business as well as personal reasons and represent a significant business opportunity over and above the local population. In addition, the relatively wealthy residential and business communities resident in the Bailiwick of Guernsey demand high quality value-added telecommunications services.

Thus, although the absolute size of the population will constrain the size of the local mobile telephony market within the Bailiwick of Guernsey (in terms of numbers), the presence of a vibrant internationally-focused and affluent banking community is likely to generate significant fixed and mobile business opportunities in its own right. It also contributes indirectly through the local support infrastructure for businesses supplying services to the banking sector, including general business services as well as the hotel and catering sector.

**Key Economic Indicators of Guernsey**

Size of country	127km <sup>2</sup>
Size of population	63,401
Guernsey GDP (2004 estimate)	£1,419M
GDP per capita (2004 estimate)	£23,726
Real GDP growth (average 1995 to 2004)	3%
Inflation (change in RPIX <sup>7</sup> , December 2005)	3.0%
VAT	0%
Corporate tax rate	20%

Neither value added tax nor capital gains tax is levied within the Bailiwick of Guernsey. Since 1960, companies and individuals have paid a flat income tax at the rate of 20%.

The States Fiscal & Economic Policy Steering Group is

currently consulting on the Bailiwicks' Future Economic and Taxation Strategy in order to comply with the EU's Code of Conduct on Business Taxation. The States intend to extend zero corporation tax regime by 2010 which requires identifying alternative government income streams to replace corporation tax<sup>8</sup>.

Currently, the inflation rate tends to run at one percent above that of the UK. At the end of December 2005 Guernsey's annual rate of inflation was 3.3%, a decrease from 3.8% at the end of previous quarter<sup>9</sup>.

<sup>6</sup> 2005 Guernsey Facts and Figures

<sup>7</sup> Annual percentage change in RPI excluding mortgage interest; Guernsey Retail Prices Index Report, 18<sup>th</sup> January 2006.

<sup>8</sup> <http://www.gov.gg/ccm/treasury-and-resources/reports/future-economic-%26-taxation-strategy.en>

<sup>9</sup> Policy and Research Unit, States of Guernsey Policy Council – 18<sup>th</sup> January 2006



The size of the labour force is approximately 31,500 (working population at Q1 2004) with an unemployment rate of below 0.32%<sup>10</sup>. Unemployment levels are measured by the number of people claiming benefit from the Guernsey Social Security Department. The number of people registered as unemployed and available for employment stood at 243 at the end of January 2006.

## **2.5. Telecommunications**

In 2002 the state owned fixed and mobile telecoms operator in Guernsey, Guernsey Telecom, which had recently been commercialised, was bought by global telecommunications group Cable and Wireless. Later that year it was renamed Cable and Wireless Guernsey (“C&WG”). An independent regulator for the telecoms sector was established in October 2001 and since then both the fixed and mobile telecoms markets have been liberalised and opened to competition.

As a result there are currently two 2G operators active in the Bailiwick: Cable and Wireless Guernsey and Wave Telecom (owned by Jersey Telecom the Jersey incumbent operator). Wave Telecom also provides a 3G service to consumers in the Bailiwick. The first 3G licence was awarded to Wave Telecom in April 2003, and their 3G services were launched in July 2004. Both C&WG and Wave Telecom are required to provide mobile services on the main islands of the Bailiwick.

The current mobile penetration rate is over 80% although the bulk of this is in the 2G market. Therefore there is scope for increasing the number of subscribers and the associated revenues and 3G subscriber numbers are increasing and existing 2G subscribers are demonstrating an increasing readiness for data communications.

In summary, 3G technology readiness is high within the Bailiwick of Guernsey and potential further uptake is there to be capitalised upon. Combined with a healthy economy, high population density, a growing telecommunications market and independent regulation, this shows the Bailiwick of Guernsey constitutes an attractive market opportunity for potential investors in a 3G licence.

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<sup>10</sup> 2005 Guernsey Facts and Figures, States of Guernsey

## 3. Regulatory and Legal Framework

### 3.1. The Office Of Utility Regulation

On 1 October 2001, the States of Guernsey introduced a legislative package for telecommunications designed:

- to ensure that Guernsey's consumers receive the best in terms of price, choice and quality of telecommunications services, and
- to ensure that the Bailiwick has a vibrant, innovative and sustainable telecommunications sector.

The new legislation created the OUR and charges the DG with a wide range of functions and duties. Under the Regulation of Telecommunications (Bailiwick of Guernsey) Law,

#### **The Office of Utility Regulation**

The Office of Utility Regulation (the OUR) is the regulatory agency for the three utility sectors of telecommunications, post and electricity in Guernsey. Established in 2001 under the Regulation (Bailiwick of Guernsey) Law, 2001 and headed up by a States appointed Director General, Mr. John Curran, the Office's functions are governed by legislation on each of the three different sectors.

The strategic aims of the OUR are:

- To ensure that consumers receive the best value, choice and access to high quality utility services.
- To ensure that the Bailiwick of Guernsey has vibrant, sustainable utility sectors capable of maintaining pace with global developments and thereby contributing to the economic and social well-being of the islands.

Guernsey's utility sectors are facing into a change process as they transform themselves to cope with the demands of a 21st century economy. This is vital if Guernsey is to continue to compete successfully with its neighbours and maintain its position as a vibrant and attractive place to do business. It is also necessary if the people of the Bailiwick are to have the same standard and service as other advanced western European jurisdictions.

The OUR has been set up in response to these changes and the new regulatory framework is designed to facilitate the transformation process in the utilities sector, protecting and promoting both the interests of consumers and the overall economy of the Bailiwick.

Find out more about OUR and Guernsey's regulatory framework for telecommunications at [www.regutil.gg](http://www.regutil.gg)

2001 the Office has the responsibility for licensing of telecommunications operators as well as managing the liberalisation of the telecommunications market. The OUR will achieve this by encouraging best practice in the telecommunications sector, while giving new operators access to the existing network within realistic timescales and at realistic costs. Ultimately the main beneficiary of this process is the consumer.

Having regard to the general duties of the DG set out in section 2 of the Telecommunications (Bailiwick of Guernsey) Law 2001 and subject to the provisions of any States' Directions, the DG may grant a licence authorising any person to establish, operate and maintain a telecommunications network; or to provide telecommunications

services of any class or description specified in the licence. Section 3(1) of the Telecommunications Law describes the Director General's responsibilities for publishing details of the procedures to be followed and the criteria to be applied in relation to applications for, and the grant of, licences.

### **3.2. Office of Communications (Ofcom)**

Ofcom, the UK communications regulator, is responsible for managing the Specified Numbering Scheme (which is used to allocate numbers) and issuing the Numbering Conventions in the UK. The country code allocated by the International Telecommunications Union (“ITU-T”) to the UK is “44”<sup>11</sup>. The country code “44” is also used by Guernsey, Jersey and the Isle of Man.

Ofcom is also responsible for developing a numbering strategy in the UK’s national interest and developing the Numbering Scheme in recognition of the fact that numbers and codes are scarce national resources that need to be managed efficiently. The Numbering Conventions are revised from time to time by Ofcom.

Section 11 of the Telecommunications (Bailiwick of Guernsey) Law 2001 allows the DG to establish a numbering scheme in the Bailiwick which shall, so far as is practicable and in accordance with international best practice, take into account the needs of licensees and users in the Bailiwick and promote the efficient use of numbers in the Bailiwick. In practice the OUR and Ofcom work closely together both in implementing the UK Numbering Scheme (i.e. the allocation of UK numbers to licensed operators within the Bailiwick) and enforcing compliance with the UK Numbering Conventions (i.e. ensuring operators adopt a Numbering Plan, for such numbers or codes allocated to them, in accordance with the Numbering Conventions).

In order to operate and use frequency spectrum in the Bailiwick of Guernsey for the provision of mobile telecommunications networks and services, the Successful Applicant must obtain a Wireless Telegraphy (“WT”) licence from Ofcom. A WT licence(s) will be furnished by Ofcom in accordance with the procedures and rules set by that authority. The Wireless Telegraphy (Spectrum Trading) Regulations 2004, through which the UK enacted the spectrum trading measures of the Communications Act 2003, were not extended to the Bailiwick of Guernsey by Order in Council.

In addition, the current spectrum trading regulations in place in the UK do not address 2G or 3G licence products. However, Ofcom plans to introduce trading progressively to a wider range of licence products, with 2G/3G products earmarked for possible inclusion by 2007.

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<sup>11</sup> This code follows the international dialing prefix (00) on calls made from outside the UK.

## 4. Details of the Competition

### 4.1. Number and nature of licences available

Number of licences available

- The DG intends to award one third-generation (3G) Mobile Telecommunications Licence in the Bailiwick of Guernsey pursuant to this competition, which will come into force from 1 August 2006.
- It may be possible for the successful applicant for a 3G licence, subject to demonstrable need, to acquire a second-generation (2G) licence.
- The Mobile Telecommunications Licences will grant the holders rights to operate a 3G (and 2G if appropriate) network and provide services on a Bailiwick-wide basis.

Licence duration

- The 3G Mobile Licence available pursuant to this competition will be valid for a period of 20 years from the licence commencement date.
- The 2G Mobile Licence available pursuant to this competition will be valid for a period of 15 years from the licence commencement date.
- In all instances, the licensee will have the right under their licence(s) to serve notice on the DG requesting an extension to their licence(s) and the DG will have the right to suspend or revoke the licence(s) in specified circumstances.

### 4.2. Spectrum Allocations

Ofcom has identified the following 3G frequency spectrum for the Successful Applicant of the 3G Mobile Telecommunications Licence in Guernsey:

One 3G frequency spectrum block of 2 x 10 MHz paired and 1 x 5 MHz unpaired in the 1900 / 2100 MHz spectrum bands.<sup>12</sup>

Furthermore, Ofcom has identified 2G frequency spectrum for assignment to the successful 3G licence winner in Guernsey, who is able to demonstrate a need for 2G spectrum, with the aim of operating a 2G mobile service in the Bailiwick. This spectrum will be made available as:

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<sup>12</sup> A similar spectrum reservation (in adjacent bands) has been made for Jersey in observance of the MoU concerning frequency co-ordination between UK and France for the Channel Islands area.

One 2G frequency spectrum block of 2 x 20MHz paired in the GSM1800 spectrum band.

### **4.3. Minimum Requirements**

Only those Applicants who comply with a set of minimum requirements shall be considered for the award of the available 3G Mobile Telecommunications Licence. The minimum requirements are specified in detail in the Tender Document and include:

- Standards;
- Network roll out and coverage;
- Sharing of network infrastructure;
- Financial viability of applicant; and
- Commitment for access to MVNOs and service providers (to be relied upon only if, upon completion of this competition, there is only one licensed mobile telecommunications operator in the Bailiwick of Guernsey).

### **4.4. Fees**

Applicants should note that there are a number of fees payable in relation to the licence offered. These fees consist of both once off and recurring charges. Payment of these fees is a minimum requirement of the competition. These fees are described below but further details of the fees are provided in the Tender Document.

#### **Application fee/deposit:**

In the interest of equity with the last 3G licence award and the cost recovery principle, there is a minimum application fee of £250,000. The DG does not envisage the cost of running this competition exceeding the £250,000 application fee, but believes it appropriate to ensure that any Applicant is aware that they will be required to meet the costs of the competition in the event that it does exceed £250,000.

Each Applicant must therefore provide a valid bank cheque for £100,000 as a deposit with their application. However only the Successful Applicant offered a licence shall be liable for the full licence fee, and in the event that an Applicant is not offered the licence, the deposit will be refunded. No specific fee for the award of 2G licence awarded by the OUR will be levied.

**Annual frequency fee:** WT licensees will be liable to pay an annual licence fee to cover the costs of frequency management activities to Ofcom. Details of the charges are provided in the Tender Document and are available from Ofcom.

**Annual licence fee to the OUR:** In accordance with the Telecommunications (Bailiwick of Guernsey) Law 2001 section 6, the DG will impose on holders of a Mobile Telecommunications Licence an annual licence fee to cover the OUR's costs of

regulatory activities in Guernsey. The annual licence fee is currently set at 1.4% of a licensee's annual relevant turnover.

#### **4.5. Evaluation Process**

The 3G Mobile Telecommunications Licence shall be awarded by way of an open competition based on a comparative selection method. This involves evaluating Applications against a set of criteria reflecting the DG's duties under the Regulation Law and the objectives described in the Tender Document.

All Applications received before the deadline will be subjected to a two-stage evaluation and selection process as set out below.

##### **Stage 1: Admittance test**

All Applications must pass an admittance test in order to identify those Applicants that are eligible for the award of the 3G Mobile Telecommunications Licence. Only Applications that

- comply with the rules of the competition<sup>13</sup>; and
- fulfil the minimum requirements

will be considered and deemed eligible to participate in the second stage of the comparative evaluation process.

##### **Stage 2: Comparative evaluation**

All eligible Applicants will be evaluated against the criteria set out below regardless of the number of Applicants. The DG reserves the right not to award any or all of the licences available.

The comparative evaluation for the award of 3G licences will be carried out by assessing the eligible Applications against the following criteria. The relative importance of each criterion is indicated by the attached weight.

<b>Criteria</b>	<b>Weight</b>
Coverage	5%
Technical network quality	15%
Credibility of Business Planning	10%
Promotion of protection of the environment	15%
Promotion of competition (incl. preparedness to offer MVNO access)	25%
Performance guarantees	30%

The results of the competition will be communicated to each Applicant in writing.

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<sup>13</sup> Details of the rules of the competition are available from the Tender Document

## **5. Conclusion**

The DG invites interested parties to purchase the detailed Tender Document in accordance with section 1.5 and looks forward to the receipt of Applications for the second 3G Mobile Telecommunications Licence in Guernsey.

**/ENDS**